

# MEMO

**DATE:** May 1, 2003

**TO:** The Community, Economic and Human Development Committee (CEHD)

**FROM:** Alfredo B. Gonzalez, Senior Government Affairs Officer **ABG**  
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**SUBJECT:** Assembly Bill 1221 (Steinberg/Campbell) California Balanced Communities Act of 2003

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## RECOMMENDED ACTION: MONITOR

### SUMMARY:

Assembly Bill 1221 co-authored by Assemblymembers Darrell Steinberg (D- Sacramento) and John Campbell (R-Irvine), attempts to balance the system of local government finance by eliminating the disincentives currently associated with the building of homes. Specifically, the bill would:

- Swap a portion of the locally levied sales tax for an equivalent amount of property tax from the state.
- Reduce the locally levied 1% sales tax rate to .5% and raise the state sales tax by .5%.
- Increase the amount of property tax equal to .5% of the locally levied sales tax from the state to each respective city or county in the base year.
- Each year after the base year, the city and the county will receive the same amount of property tax they received in the prior year, plus a share of the property tax that is attributable to the growth in assessed value within their jurisdiction. The pro rata shares of the property tax of each jurisdiction would determine the share of growth.
- Provide a reversal mechanism so that if a future legislature reduces the property tax allocated to local governments in this bill, then the sales tax rate would be reinstated.

### BACKGROUND:

The fractured history of local government financing has caused cities and counties to become reliant upon their ability to maximize their sales tax opportunities. As a result, local governments are often challenged when making decisions between preferable land uses and generating sales tax revenue. AB 1221 seeks to balance local government financing by providing municipalities with a constant and balanced revenue stream that reduces land use revenue incentives.

Specifically, AB 1221 would reduce local government's reliance on sales tax and increase their share of property tax revenue by swapping a portion of their locally levied sales tax with the state for an equal amount of property tax. This new formula would still enable cities to collect enough sales tax revenue to cover the cost of building neighborhood retail. However, due to the increased proportion of property tax retained by cities, projects such as housing and corporate job centers would begin to pencil out.

AB 1221 originated in part from the Speaker's Commission on Local Government Finance. Its proposal was analyzed in December 1999 by League of California Cities staff, and although no policy recommendation was made, the proposal was found to do what it purports: remove barriers to residential and non-retail development, provide a more stable revenue future, and prevent financial harm to individual cities. The League, however, has taken an oppose unless amended position on AB 1221, given its members' concerns that property taxes made available today will be raided tomorrow. Assembly Member Steinberg addressed the trust issue at a recent League Board of Directors meeting, saying he

supports protecting local revenues with a constitutional amendment, but wants to make reforms now as well.

**SUPPORT:**

- Unavailable at this time.

**OPPOSE:**

- League of California Cities (unless amended)

**BILL STATUS:**

AB 1221 was referred to the Assembly Local Government Committee by the Revenue and Taxation Committee. It will be heard in Local Government on April 23<sup>rd</sup>.

**FISCAL IMPACT:**

All work related to adopting the recommended staff action is contained within the adopted FY 02/03 budget and adopted 2003 SCAG Legislative Program and does not require the allocation of any additional financial resources.

ABG/Doc#84369

AMENDED IN ASSEMBLY MARCH 25, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1221**

**Introduced by Assembly Members Steinberg and Campbell**

February 21, 2003

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An act to amend ~~Section 201 of~~ Section 29530 of the Government Code, to amend Sections 6051, 6201, 7202, and 7203 of, and to add Section 97.68 to, the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

AB 1221, as amended, Steinberg. ~~Property taxation~~ Taxation.

(1) Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that

county for allocation to school districts, community college districts, and the county office of education.

The Bradley-Burns Uniform Local Sales and Use Tax Law authorizes a county to impose a local sales and use tax at a rate of  $1\frac{1}{4}\%$ , and similarly authorizes a city, located within a county imposing such a tax rate, to impose a local sales tax rate of 1% that is credited against the county rate. Existing law requires a city, county, or city and county imposing a local sales and use tax pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law to contract with the State Board of Equalization to administer the local sales and use tax. Existing law also requires the board, at least twice during each calendar quarter, to transmit local sales and use tax revenue to the city, county, or city and county in which the revenue was collected.

This bill would, on and after July 1, 2004, prohibit a city from imposing a sales and use tax under the Bradley-Burns Uniform Local Sales and Use Tax Law at a rate in excess of  $\frac{1}{2}$  of 1% and prohibit a county from imposing sales and use tax under that law at a rate in excess of  $\frac{3}{4}$  of 1%.

This bill would also, for the 2004–05 fiscal year, increase the amount of ad valorem property tax revenue deemed allocated to a county or city in the 2003–04 fiscal year by that county or city's reimbursement amount, as defined, and correspondingly decrease the amount of ad valorem property tax revenue allocated to a county's Educational Revenue Augmentation Fund by the countywide adjustment amount, as defined. This bill would also require the board to make certain calculations and to notify county auditors of these calculations. This bill would render inoperative other provisions of the bill if a specified statute is amended in a manner that reduces the amount of ad valorem property tax revenue that is allocated to cities and counties under the bill. This bill would also make conforming changes to corresponding provisions. By imposing new duties upon local tax officials in the annual allocation of ad valorem property tax revenues, this bill would impose a state-mandated local program.

(2) The California Constitution requires for each fiscal year that a minimum amount of money, computed under one of 3 formulas, be set aside from all state revenues for the support of school districts and community college districts.

This bill would state the intent of the Legislature that the state maintain its aggregate funding obligations under these provisions.

(3) *The Sales and Use Tax Law provides for the levy of a state sales and use tax upon the gross receipts from the sale in this state of, or the storage, use, or other consumption in this state of, tangible personal property.*

*This bill would, on and after July 1, 2004, increase the sales and use tax rate under that law by  $\frac{1}{2}$  of 1%.*

*This bill would result in a change in state taxes for the purpose of increasing revenues within the meaning of Section 3 of Article XIII A of the California Constitution, and thus would require for passage the approval of  $\frac{2}{3}$  of the membership of each house of the Legislature.*

(4) *The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing property tax law provides that all property in this state, not exempt under the laws of the United States or of this state, is subject to taxation.~~

~~This bill would make technical, nonsubstantive changes to this provision.~~

Vote: ~~majority~~  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: ~~no~~ yes.  
State-mandated local program: ~~no~~ yes.

*The people of the State of California do enact as follows:*

1 ~~SECTION 1. Section 201 of the Revenue and Taxation Code~~

2 *SECTION 1. This act shall be known and may be cited as the*  
3 *California Balanced Communities Act of 2003.*

4 *SEC. 2. Section 29530 of the Government Code is amended to*  
5 *read:*

6 29530. (a) If the board of supervisors so agrees by contract  
7 with the State Board of Equalization, the board of supervisors shall  
8 establish a local transportation fund in the county treasury and  
9 shall deposit in the fund all revenues transmitted to the county by

1 the State Board of Equalization under Section 7204 of the Revenue  
2 and Taxation Code, which are derived from that portion of the  
3 taxes imposed by the county at a rate in excess of 1 percent, *and*  
4 *on and after July 1, 2004, in excess of one-half of 1 percent,*  
5 pursuant to Part 1.5 (commencing with Section 7200) of Division  
6 2 of that code, less an allocation of the cost of the services of the  
7 State Board of Equalization in administering the sales and use tax  
8 ordinance related to the rate in excess of 1 percent, *and on and*  
9 *after July 1, 2004, in excess of one-half of 1 percent,* and of the  
10 Director of Transportation and the Controller in administering the  
11 responsibilities assigned to him or her in Chapter 4 (commencing  
12 with Section 99200) of Part 11 of Division 10 of the Public  
13 Utilities Code.

14 ~~Any~~

15 (b) Any interest or other income earned by investment or  
16 otherwise of the local transportation fund shall accrue to and be a  
17 part of the fund.

18 SEC. 3. Section 97.68 is added to the Revenue and Taxation  
19 Code, to read:

20 97.68. (a) Notwithstanding any other provision of this  
21 chapter, for purposes of annual ad valorem property tax revenue  
22 allocations in the 2004–05 fiscal year, all of the following apply:

23 (1) The total amount of ad valorem property tax revenue  
24 deemed allocated to a county in the 2003–04 fiscal year shall be  
25 increased by the county reimbursement amount.

26 (2) The total amount of ad valorem property tax revenue  
27 deemed allocated to a city in the 2003–04 fiscal year shall be  
28 increased by that city's city reimbursement amount.

29 (3) The total amount of ad valorem property tax revenue  
30 deemed allocated to a county's Educational Revenue  
31 Augmentation Fund in the 2003–04 fiscal year shall be reduced by  
32 the countywide adjustment amount.

33 (b) For the 2004–05 fiscal year and each fiscal year thereafter,  
34 ad valorem property tax revenue allocations made pursuant to  
35 Section 96.1 shall fully incorporate the allocation adjustments  
36 required by this section.

37 (c) Any reduction resulting from subdivision (a) in the amount  
38 of ad valorem property tax revenue deposited in a county's  
39 Educational Revenue Augmentation Fund shall be applied  
40 exclusively to reduce the amount of revenue allocated from that

1 *fund to school districts and county offices of education, and may*  
2 *not be applied to reduce the amount of revenue allocated from that*  
3 *fund to community college districts.*  
4 *(d) For purposes of this section:*  
5 *(1) "City reimbursement amount" means the difference*  
6 *between the following two amounts:*  
7 *(A) The amount of revenue that a city would have received*  
8 *pursuant to Section 7204 in the 2003–04 fiscal year if that city had*  
9 *imposed a sales and use tax at a rate of one-half of 1 percent.*  
10 *(B) The amount of revenue that the city received pursuant to*  
11 *Section 7204 the 2003–04 fiscal year.*  
12 *(2) "County reimbursement amount" means the difference*  
13 *between the following two amounts:*  
14 *(A) The amount of revenue that the county would have received*  
15 *pursuant to Section 7204 in the 2003–04 fiscal year if that county*  
16 *had imposed a sales and use tax at a rate of three-quarters of 1*  
17 *percent.*  
18 *(B) The amount of revenue that the county received pursuant to*  
19 *Section 7204 in the 2003–04 fiscal year.*  
20 *(3) "Countywide adjustment amount" means the combined*  
21 *total amounts determined pursuant to paragraphs (2) and (3) for*  
22 *the county and each city in that county.*  
23 *(4) The board shall make the calculations specified in*  
24 *paragraphs (1) and (2), and shall notify the auditor of each county*  
25 *of these amounts on or before July 14, 2004.*  
26 *SEC. 4. Section 6051 of the Revenue and Taxation Code is*  
27 *amended to read:*  
28 *6051. For the privilege of selling tangible personal property*  
29 *at retail a tax is hereby imposed upon all retailers at the rate of 2½*  
30 *percent of the gross receipts of any retailer from the sale of all*  
31 *tangible personal property sold at retail in this state on or after*  
32 *August 1, 1933, and to and including June 30, 1935, and at the rate*  
33 *of 3 percent thereafter, and at the rate of 2½ percent on and after*  
34 *July 1, 1943, and to and including June 30, 1949, and at the rate*  
35 *of 3 percent on and after July 1, 1949, and to and including July*  
36 *31, 1967, and at the rate of 4 percent on and after August 1, 1967,*  
37 *and to and including June 30, 1972, and at the rate of 3¾ percent*  
38 *on and after July 1, 1972, and to and including June 30, 1973, and*  
39 *at the rate of 4¾ percent on and after July 1, 1973, and to and*  
40 *including September 30, 1973, and at the rate of 3¾ percent on*

1 and after October 1, 1973, and to and including March 31, 1974,  
2 and at the rate of  $4\frac{3}{4}$  percent ~~thereafter~~ *to and including June 30,*  
3 *2004, and at the rate of  $5\frac{1}{4}$  percent on and after July 1, 2004.*

4 SEC. 5. Section 6201 of the Revenue and Taxation Code is  
5 amended to read:

6 6201. An excise tax is hereby imposed on the storage, use, or  
7 other consumption in this state of tangible personal property  
8 purchased from any retailer on or after July 1, 1935, for storage,  
9 use, or other consumption in this state at the rate of 3 percent of the  
10 sales price of the property, and at the rate of  $2\frac{1}{2}$  percent on and  
11 after July 1, 1943, and to and including June 30, 1949, and at the  
12 rate of 3 percent on and after July 1, 1949, and to and including July  
13 31, 1967, and at the rate of 4 percent on and after August 1, 1967,  
14 and to and including June 30, 1972, and at the rate of  $3\frac{3}{4}$  percent  
15 on and after July 1, 1972, and to and including June 30, 1973, and  
16 at the rate of  $4\frac{3}{4}$  percent on and after July 1, 1973, and to and  
17 including September 30, 1973, and at the rate of  $3\frac{3}{4}$  percent on  
18 and after October 1, 1973, and to and including March 31, 1974,  
19 and at the rate of  $4\frac{3}{4}$  percent ~~thereafter~~ *to and including June 30,*  
20 *2004, and at the rate of  $5\frac{1}{4}$  percent on and after July 1, 2004.*

21 SEC. 6. Section 7202 of the Revenue and Taxation Code is  
22 amended to read:

23 7202. The sales tax portion of any sales and use tax ordinance  
24 adopted under this part shall be imposed for the privilege of selling  
25 tangible personal property at retail, and shall include provisions in  
26 substance as follows:

27 (a) A provision imposing a tax for the privilege of selling  
28 tangible personal property at retail upon every retailer in the  
29 county at the rate of  $1\frac{1}{4}$  percent, *and on and after July 1, 2004,*  
30 *three-quarters of 1 percent*, of the gross receipts of the retailer  
31 from the sale of all tangible personal property sold by that person  
32 at retail in the county.

33 (b) Provisions identical to those contained in Part 1  
34 (commencing with Section 6001), insofar as they relate to sales  
35 taxes, except that the name of the county as the taxing agency shall  
36 be substituted for that of the state and that an additional seller's  
37 permit shall not be required if one has been or is issued to the seller  
38 under Section 6067.

39 (c) A provision that all amendments subsequent to the effective  
40 date of the enactment of Part 1 (commencing with Section 6001)



1 relating to sales tax and not inconsistent with this part, shall  
2 automatically become a part of the sales tax ordinance of the  
3 county.

4 (d) A provision that the county shall contract prior to the  
5 effective date of the county sales and use tax ordinances with the  
6 State Board of Equalization to perform all functions incident to the  
7 administration or operation of the sales and use tax ordinance of  
8 the county. Any such contract shall contain a provision that the  
9 county agrees to comply with the provisions of Article 11  
10 (commencing with Section 29530) of Chapter 2 of Division 3 of  
11 Title 3 of the Government Code.

12 (e) A provision that the ordinance may be made inoperative not  
13 less than 60 days, but not earlier than the first day of the calendar  
14 quarter, following the county's lack of compliance with Article 11  
15 (commencing with Section 29530) of Chapter 2 of Division 3 of  
16 Title 3 of the Government Code or following an increase by any  
17 city within the county of the rate of its sales or use tax above the  
18 rate in effect at the time the county ordinance was enacted.

19 (f) A provision that the amount subject to tax shall not include  
20 the amount of any sales tax or use tax imposed by the State of  
21 California upon a retailer or consumer.

22 (g) A provision that there is exempted from the sales tax 80  
23 percent of the gross receipts from the sale of tangible personal  
24 property, other than fuel or petroleum products, to operators of  
25 aircraft to be used or consumed principally outside the county in  
26 which the sale is made and directly and exclusively in the use of  
27 the aircraft as common carriers of persons or property under the  
28 authority of the laws of this state, the United States, or any foreign  
29 government.

30 (h) A provision that any person subject to a sales and use tax  
31 under the county ordinance shall be entitled to credit against the  
32 payment of taxes due under that ordinance the amount of sales and  
33 use tax due to any city in the county; provided, that the city sales  
34 and use tax is levied under an ordinance including provisions in  
35 substance as follows:

36 (1) A provision imposing a tax for the privilege of selling  
37 tangible personal property at retail upon every retailer in the city  
38 at the rate of 1 percent or less, *and on and after July 1, 2004,*  
39 *one-half of 1 percent or less,* of the gross receipts of the retailer  
40 from the sale of all tangible personal property sold by that person

1 at retail in the city and a use tax of 1 percent or less of purchase  
2 price upon the storage, use or other consumption of tangible  
3 personal property purchased from a retailer for storage, use or  
4 consumption in the city.

5 (2) Provisions identical to those contained in Part 1  
6 (commencing with Section 6001), insofar as they relate to sales  
7 and use taxes, except that the name of the city as the taxing agency  
8 shall be substituted for that of the state (but the name of the city  
9 shall not be substituted for the word "state" in the phrase "retailer  
10 engaged in business in this state" in Section 6203 nor in the  
11 definition of that phrase in Section 6203) and that an additional  
12 seller's permit shall not be required if one has been or is issued to  
13 the seller under Section 6067.

14 (3) A provision that all amendments subsequent to the effective  
15 date of the enactment of Part 1 (commencing with Section 6001)  
16 relating to sales and use tax and not inconsistent with this part, shall  
17 automatically become a part of the sales and use tax ordinance of  
18 the city.

19 (4) A provision that the city shall contract prior to the effective  
20 date of the city sales and use tax ordinance with the State Board of  
21 Equalization to perform all functions incident to the  
22 administration or operation of the sales and use tax ordinance of  
23 the city which shall continue in effect so long as the county within  
24 which the city is located has an operative sales and use tax  
25 ordinance enacted pursuant to this part.

26 (5) A provision that the storage, use or other consumption of  
27 tangible personal property, the gross receipts from the sale of  
28 which has been subject to sales tax under a sales and use tax  
29 ordinance enacted in accordance with this part by any city and  
30 county, county, or city in this state, shall be exempt from the tax  
31 due under this ordinance.

32 (6) A provision that the amount subject to tax shall not include  
33 the amount of any sales tax or use tax imposed by the State of  
34 California upon a retailer or consumer.

35 (7) A provision that there are exempted from the computation  
36 of the amount of the sales tax the gross receipts from the sale of  
37 tangible personal property to operators of aircraft to be used or  
38 consumed principally outside the city in which the sale is made and  
39 directly and exclusively in the use of the aircraft as common

1 carriers of persons or property under the authority of the laws of  
2 this state, the United States, or any foreign government.

3 (8) A provision that, in addition to the exemptions provided in  
4 Sections 6366 and 6366.1, the storage, use, or other consumption  
5 of tangible personal property purchased by operators of aircraft  
6 and used or consumed by the operators directly and exclusively in  
7 the use of the aircraft as common carriers of persons or property  
8 for hire or compensation under a certificate of public convenience  
9 and necessity issued pursuant to the laws of this state, the United  
10 States, or any foreign government is exempt from the use tax.

11 *SEC. 7. Section 7203 of the Revenue and Taxation Code is*  
12 *amended to read:*

13 7203. The use tax portion of any sales and use tax ordinance  
14 adopted under this part shall impose a complementary tax upon the  
15 storage, use or other consumption in the county of tangible  
16 personal property purchased from any retailer for storage, use or  
17 other consumption in the county. That tax shall be at the rate of  $1\frac{1}{4}$   
18 percent, *and on and after July 1, 2004, three-quarters of 1 percent,*  
19 of the sales price of the property whose storage, use or other  
20 consumption is subject to the tax and shall include:

21 (a) Provisions identical to the provisions contained in Part 1  
22 (commencing with Section 6001), other than Section 6201 insofar  
23 as those provisions relate to the use tax, except that the name of the  
24 county as the taxing agency enacting the ordinance shall be  
25 substituted for that of the state (but the name of the county shall  
26 not be substituted for the word "state" in the phrase "retailer  
27 engaged in business in this state" in Section 6203 nor in the  
28 definition of that phrase in Section 6203).

29 (b) A provision that all amendments subsequent to the date of  
30 such ordinance to the provisions of the Revenue and Taxation  
31 Code relating to the use tax and not inconsistent with this part shall  
32 automatically become a part of the ordinance.

33 (c) A provision that the storage, use or other consumption of  
34 tangible personal property, the gross receipts from the sale of  
35 which has been subject to sales tax under a sales and use tax  
36 ordinance enacted in accordance with this part by any city and  
37 county, county, or city in this state, shall be exempt from the tax  
38 due under this ordinance.

1 (d) A provision that the amount subject to tax shall not include  
2 the amount of any sales tax or use tax imposed by the State of  
3 California upon a retailer or consumer.

4 (e) A provision that, in addition to the exemptions provided in  
5 Sections 6366 and 6366.1, the storage, use, or other consumption  
6 of tangible personal property, other than fuel or petroleum  
7 products, purchased by operators of aircraft and used or consumed  
8 by the operators directly and exclusively in the use of the aircraft  
9 as common carriers of persons or property for hire or  
10 compensation under a certificate of public convenience and  
11 necessity issued pursuant to the laws of this state, the United States  
12 or any foreign government is exempt from 80 percent of the use  
13 tax.

14 *SEC. 8. It is the intent of the Legislature in enacting this act*  
15 *that the state maintain its aggregate funding obligations under*  
16 *Section 8 of Article XVI of the California Constitution.*

17 *SEC. 9. If Section 97.68 of the Revenue and Taxation Code is*  
18 *amended in a manner that results in a reduction in the amount of*  
19 *ad valorem property tax revenue that is allocated to a city or county*  
20 *pursuant to this act, Sections 2, 3, 4, 5, 6, 7, and 8 of this act shall*  
21 *cease to be operative.*

22 *SEC. 10. Notwithstanding Section 17610 of the Government*  
23 *Code, if the Commission on State Mandates determines that this*  
24 *act contains costs mandated by the state, reimbursement to local*  
25 *agencies and school districts for those costs shall be made*  
26 *pursuant to Part 7 (commencing with Section 17500) of Division*  
27 *4 of Title 2 of the Government Code. If the statewide cost of the*  
28 *claim for reimbursement does not exceed one million dollars*  
29 *(\$1,000,000), reimbursement shall be made from the State*  
30 *Mandates Claims Fund.*

31 ~~is amended to read:~~

32 ~~201.—All property in this state that is not exempt under the laws~~  
33 ~~of the United States or of this state is subject to taxation under this~~  
34 ~~code.~~